

# EXHIBIT C



August 11, 2025

**Via Email**

Breon Peace  
United States Attorney  
Eastern District of New York  
Attn: Civil Division / Touhy Officer  
271 Cadman Plaza East  
Brooklyn, NY 11201

**Re:** Touhy Request for Testimony of Special Agent Egbert Simon  
*United States v. Jacob Israel Walden*, 23-CR-521 (E.D.N.Y.)

Dear Mr. Peace:

Pursuant to **28 C.F.R. §§ 16.21–16.29** (Department of Justice “Touhy” regulations), I respectfully request authorization for Special Agent Egbert Simon, currently assigned to the United States Attorney’s Office for the Eastern District of New York, to appear and testify as a defense witness at an evidentiary hearing in the above-captioned matter on **August 25, 2024** before the Honorable Gary R. Brown, United States District Judge.

**Testimony Sought**

Special Agent Simon’s testimony is material to the defense’s pending motion to suppress. In *United States v. Robinson*, E.D.N.Y. 23-CR-192, Agent Simon testified regarding U.S. Customs and Border Protection protocols for the seizure of electronic devices at ports of entry. The government contends that the April 21, 2024 seizure of Mr. Walden’s phone was a lawful “border search.” Agent Simon’s testimony is necessary to:

1. Describe CBP’s standard procedures for electronic device seizures at the border as of April 21, 2024.
2. Compare those procedures to the actions taken in Mr. Walden’s case.
3. Provide context regarding CBP’s operational requirements, relevant to the lawfulness of the search.
4. Additional information can be found in my letter to AUSA Sandlar dated August 11, 2025.



## Materiality & Unavailability Elsewhere

No other witness can provide equivalent, first-hand knowledge of the applicable CBP protocols and their implementation. This testimony is directly relevant to whether the government's search and seizure complied with constitutional and regulatory requirements.

## Attachments

Pursuant to 28 C.F.R. § 16.23(c), enclosed are:

1. Proposed Rule 17(a) subpoena.
2. Court order/docket entry scheduling the evidentiary hearing.
3. Summary of anticipated testimony as outlined in the letter to AUSA Sandlar.
4. Excerpts from *United States v. Robinson* (Simon testimony).

Given the hearing date, we respectfully request a response no later than **August 15, 2024**. Please advise whether the Department will voluntarily produce Special Agent Simon or if a formal court order will be required.

Respectfully submitted,

Saul Bienenfeld